

GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT.

Labour Dispute: Industrial Dispute between the Workmen and the Management of Ganesh Picture House, Laxmipuram, Mysore.

Award of the Labour Court, Bangalore—Published.

Read the following papers :

(1) Letter No. 1722/70-71 dated 16th November 1970, from Sri A. N. Sundara Murthy Presiding Officer, Labour Court, Bangalore.

**BEFORE THE PRESIDING OFFICER LABOUR COURT
AT BANGALORE.**

Dated 16th November 1970.

Reference No. 23 of 1970.

Present :

Sri A. N. Sundara Murthy, B.A., B.L., Presiding Officer.

I Party.—Sri S. Devaraj, Door No. 3829, Karunapura, Narasimharaja Mohalla, Mysore.

Vs

II Party.—The Management of Ganesh Picture House, Laxmipuram, Mysore.

Reference :

Government Order No FCL 261 LLD 70 dated 1st July 1970.

AWARD

1. The Government of Mysore in their Order No. FCL 261 LLD 70, dated 1st July 1970 had originally referred the present industrial dispute existing between the above named parties to the

Labour Court at Mandya for adjudication on the points of dispute noted below :—

"1. Whether the Management of Ganesh Picture House, Mysore 4, are justified in terminating the services of Sri S. Devaraju with effect from 17th December 1969? If not to what relief the workman is entitled?"

2. By its order No. FCL 261 LLD 70 dated 21st July 70 the Government of Mysore withdrew the proceedings pending before the Labour Court, Mandya and transferred the same to this Court for disposal.

3. On behalf of the first party workman claim statement is filed as follows:—The first party workman was a permanent employee of the second party and he had put in more than 4 years of service. He was discharging his duties honestly and promptly. On 17th December 1969, the second party terminated the services of the first party workman. The action of the second party in terminating the services of the first party workman is not justified since no show cause notice was issued and no domestic enquiry was held. It is prayed that the first party workman may be reinstated with full back wages and continuity of service.

4. On behalf of the second party rejoinder is filed as follows : The matter came up before the Conciliation Officer on 3rd February 1970. The second party addressed a letter to the conciliation Officer and a copy of it is enclosed along with the rejoinder. The reasons for the termination and the willingness of the second party for an award in favour of the first party has been clearly mentioned in the said letter. The same may be implemented. According to the information available to the second party the first party is working presently with M/s. Lakshmi Talkies, Mysore. Hence his request for reinstatement fails. The second party prays that this court may pass an award as prayed for by the second party and intimate the same for implementation.

5. In the rejoinder filed by the second party all the facts had to be clearly pleaded. The second party cannot request this court to treat the copy of the letter filed before the Conciliation Officer dated 3rd February 1970 be read as pleadings in this case. Even granting that the said letter could be looked into for the purposes of this case only the following facts may be taken for consideration. It is stated in the said letter that the first party workman was not

attending to his duties properly and he was not punctual in his attendance. On many occasions, the first party workman was buying tickets from the booking clerks and trying to sell them at higher rate which amounted to blackmarketing in tickets. In this behalf he was warned. He did not give respect to the proprietors. His conduct became intolerable and he did not try to improve his behaviour inspite of warnings issued several times. In view of these reasons it is stated that it is not desirable that such person should be retained in the establishment and that would tend to create a filthy atmosphere among the other workers. Therefore it is stated that the second party is not prepared to take the first party in service. The second party is agreeable to pay him legitimate compensation.

6. The following issues are framed :—

1. Whether II Party is justified in terminating the services of I Party workman?
2. Whether I Party is entitled to reinstatement with back wages and continuity of service?

Or

Whether I Party could be granted compensation as pleaded by II Party?

3. To what relief, if any, I Party is entitled to?

7. The first point for consideration is whether the second party is justified in terminating the services of the first party workman. From the rejoinder filed on behalf of the second party and also copy of the letter enclosed it is seen that the second party has admitted that the second party has terminated the services of the first party workman. In this case the burden is upon the second party to prove the charges against the first party workman. This case was posted for evidence at Mysore Camp on 6th November 1970. The first party workman was present. The second party was absent though served with notice. Hence the court had no other option but to record the evidence on behalf of the first party workman. On behalf of the first party workman, the first party workman is examined as W. W 1 and the case for the first party workman was closed. On 7th November 1970 a registered letter addressed to the Presiding Officer of this court was received at Mysore Camp. In the said letter it is stated that the second party has submitted previously its willingness for the

award on the lines set out in the said letter. It is stated that the proprietors of the second party are not in station and in order to be present for personal discussion it is prayed that another suitable date may be given. Since the said letter was received after the case was closed it could not be taken up for consideration at this stage.

8. In this case from the evidence of the first party workman it is clear that the second party did not issue him any charge-sheet. No enquiry was held. The second party has also not issued him any order of termination. The second party has not let in any evidence to prove the charges made in the letter dated 3rd February 1970 addressed to the Conciliation Officer which is sent along with the rejoinder for consideration. In the said letter it is stated that the first party workman was not attending to his duties properly and he was not punctual in his attendance. It is also alleged that he was purchasing tickets from the booking clerks and trying to sell them at a higher rate in blackmarket. In the said letter it is also stated that the first party workman was not paying proper respect to the proprietors. The first party workman in his evidence has denied the above said allegations and he has also denied that warning notices had been issued to him. From these facts it is clear that the second party has not established the charges made against the first party workman in the above said letter. In view of these facts I hold that the second party was not justified in terminating the services of the first party workman.

9. The next point for consideration is whether the first party workman is entitled to reinstatement with back wages and continuity of service or whether he should be granted only compensation as pleaded by the second party. If the charges as set out in the letter dated 3rd February 1970 addressed to the Conciliation Officer had been proved and if the court had come to the conclusion that the first party workman was an undesirable person and that the second party has lost confidence in him, then instead of granting the relief of reinstatement compensation could have been granted to the first party workman. Since the second party has failed to prove the said charges it would not be justifiable not to reinstate the first party workman but only to grant his compensation as pleaded by the second party in the said letter. Hence it is clear that the first party workman is entitled to reinstatement with continuity of service.

10. The next question that remains for consideration is about back wages. In the course of his evidence the first party workman admits that he is working in Lakshmi Talkies temporarily on a monthly pay of Rs. 65 since three months. He has not given the exact date on which he joined service in the said Lakshmi Talkies and he has also not produced any document to show on what date he joined service in the said Lakshmi Talkies. In view of the fact that he is working in Lakshmi Talkies since 3 months it may not be justifiable to grant him back wages from the date he joined service in the said Lakshmi Talkies. In respect of the prior period, i.e., from the date of termination till he joined service in Lakshmi Talkies it appears to me that it would meet with ends of justice if he is granted 50 per cent of back wages for the said period.

11. In the result I make an award directing the management of the second party to reinstate the first party workman in his former post with continuity of service and pay him back wages at 50 per cent of his normal rate of wages from the date of termination to the date he joined service in Lakshmi Talkies. I order each party to bear their own costs.

A. N. SUNDARA MURTHY,
Presiding Officer,
Labour Court, Bangalore.